

AMENDED IN ASSEMBLY MARCH 18, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 71

**Introduced by Assembly Member ~~Members~~ V. Manuel Pérez and
Hueso**

January 10, 2013

An act to add Article 2 (commencing with Section 2940) to Chapter 13 of Division 3 of the Fish and Game Code, relating to the Salton Sea.

LEGISLATIVE COUNSEL'S DIGEST

AB 71, as amended, V. Manuel Pérez. Salton Sea restoration.

(1) Existing law, until January 1, 2013, established the Salton Sea Restoration Council as a state agency in the Natural Resources Agency to oversee the restoration of the Salton Sea.

This bill would require the Secretary of the Natural Resources Agency, in consultation and coordination with the Salton Sea Authority, to lead Salton Sea restoration efforts. This bill would require the secretary, in consultation and coordination with the authority, to form a technical advisory group, as prescribed, to provide guidance about evaluating, developing, or proposing future restoration or economic development activities. This bill would also require the secretary to seek input from the authority with regard to specified components of restoration of the Salton Sea. By imposing duties on a local joint powers authority, the bill would impose a state-mandated local program.

(2) Existing law establishes the Salton Sea Restoration Fund and requires the fund to be administered by the Director of Fish and Wildlife. Existing law requires the money deposited in the fund to be expended, upon appropriation by the Legislature, for various purposes relating to the restoration of the Salton Sea.

This bill would authorize the authority to lead a restoration funding and feasibility study, in consultation with the agency and the technical advisory group, as prescribed. If the authority undertakes the study, this bill would require the Department of Fish and Wildlife to enter into a funding agreement for an amount of ~~up to~~ *no less than* \$2,000,000 from the Salton Sea Restoration Fund for the purposes of this study.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Article 2 (commencing with Section 2940) is added to Chapter 13 of Division 3 of the Fish and Game Code, to read:

Article 2. Salton Sea Restoration

2940. The Legislature finds and declares all of the following:

(a) The Salton Sea is California's largest inland water body with beneficial uses that include fisheries and wildlife habitat and preservation of endangered species, and is a repository for agricultural drainage.

(b) The Salton Sea ecosystem is a critical link on the international Pacific Flyway and supports over 400 species of birds.

(c) The Salton Sea is threatened by increasing salinity and reduced inflows. These changes increasingly threaten the unparalleled wildlife resources at the sea, as well as air quality in the region.

(d) In cooperation with local governments, nonprofit organizations, private businesses, and the public, the Salton Sea Authority can help protect wildlife habitats and endangered species, improve water and air quality, and enhance recreational opportunities in the region.

1 (e) In restoring the Salton Sea, it is the intent of the Legislature
2 to do all of the following:

3 (1) Permanently protect fish and wildlife that are dependent on
4 the Salton Sea ecosystem.

5 (2) Restore the long-term stable aquatic and shoreline habitat
6 for fish and wildlife that depend on the Salton Sea.

7 (3) ~~Eliminate~~ Mitigate air quality impacts from restoration
8 projects using the best available technology *or best available*
9 *control measures*, as determined by the South Coast Air Quality
10 Management District and the Imperial County Air Pollution Control
11 District.

12 (4) Protect water quality.

13 (5) Maintain the Salton Sea as a vital link along the Pacific
14 Flyway.

15 (6) Preserve local tribal heritage and cultural values associated
16 with the Salton Sea.

17 (7) Minimize noxious odors and other water and air quality
18 problems.

19 (8) Coordinate with *local*, state, and federal agencies that are
20 responsible for air quality, endangered species, and other
21 environmental mitigation implementation requirements of the
22 Quantification Settlement Agreement.

23 (9) Enhance economic development opportunities that will
24 provide sustainable financial improvements benefiting the local
25 environment and the economic quality of life for communities
26 around the Salton Sea.

27 2941. Unless the context requires otherwise, the definitions
28 set forth in this section govern the construction of this article.

29 (a) “Agency” means the Natural Resources Agency.

30 (b) “Habitat mosaics” means two or more proximate habitat
31 types, such as saltwater shoreline abutting riverine deltas and
32 irrigated farmland.

33 (c) “Quantification Settlement Agreement” has the same
34 meaning as defined in subdivision (a) of Section 1 of Chapter 617
35 of the Statutes of 2002.

36 (d) “Salton Sea Authority” or “authority” means the joint powers
37 authority comprised of the County of Imperial, the County of
38 Riverside, the Imperial Irrigation District, the Coachella Valley
39 Water District, and the Torres Martinez Desert Cahuilla Indian
40 Tribe.

1 (e) “Secretary” means the Secretary of the Natural Resources
2 Agency.

3 (f) “Technical advisory group” means the technical advisory
4 group formed pursuant to subdivision (b) of Section 2942.

5 (g) “Vector management” means services that eliminate or
6 reduce the risk of illness caused by any organism transporting a
7 pathogen.

8 2942. (a) (1) The secretary, in consultation and coordination
9 with the authority, shall lead the Salton Sea restoration efforts that
10 shall include all of the following:

11 (A) Early start habitat demonstration projects.

12 (B) Biological investigations relating to the restoration of the
13 Salton Sea.

14 (C) Investigations of water quality, sedimentation, and inflows
15 relating to the restoration of the Salton Sea.

16 (D) Air quality investigations, *in consultation and coordination*
17 *with local and regional air quality agencies*, relating to the
18 restoration of the Salton Sea.

19 (E) Geotechnical investigations relating to the restoration of the
20 Salton Sea.

21 (F) Financial assistance grant programs to support restoration
22 activities of local stakeholders.

23 (2) The secretary and the Legislature shall maintain full authority
24 and responsibility for any state obligation under the Quantification
25 Settlement Agreement. The secretary and the Legislature shall
26 have final approval for any proposed restoration plan.

27 (3) (A) To the extent that funding is appropriated to the
28 department for Salton Sea restoration activities, the Department
29 of Water Resources, in coordination and under agreement with the
30 department, may undertake restoration efforts identified in this
31 subdivision.

32 (B) The department and the Department of Water Resources
33 shall do all of the following for the Salton Sea Species
34 Conservation Habitat Project:

35 (⊕)

36 (i) Immediately make available relevant information relating to
37 the factors that influence the cost and size of the alternatives
38 discussed in the environmental impact report or environmental
39 impact statement for the species habitat conservation program.

1 (ii) Release all available detail on a final project design
2 immediately, or upon final determination of a least environmentally
3 damaging preferred alternative by the United States Army Corps
4 of Engineers. Details of a final project design shall include location,
5 configuration, size, and cost.

6 (iii) Immediately make available project evaluation protocols
7 that include the following principles of adaptive management:

8 (I) Goals and objectives of the project.

9 (II) The project design and an operations plan.

10 (III) A monitoring plan that will include metrics that identify
11 benefits to the species.

12 (IV) A performance evaluation based on species population
13 identified through monitoring.

14 (V) A decisionmaking framework to evaluate project
15 performance and guide operations and management changes.

16 (b) (1) The secretary, in consultation and coordination with the
17 authority, shall form a technical advisory group composed pursuant
18 to paragraph (2) to provide guidance to the secretary and the
19 authority in evaluating, developing, or proposing future restoration
20 of or economic development activities restoring the, Salton Sea.

21 (2) The technical advisory group shall be composed as follows:

22 (A) The secretary, or his or her designee.

23 (B) The secretary may include a representative from any of the
24 following:

25 (⊕)

26 (i) The department.

27 (ii) The Department of Water Resources.

28 (iii) The State Air Resources Board.

29 (iv) The State Energy Resources Conservation and Development
30 Commission.

31 (C) The secretary shall invite the following entities to
32 participate:

33 (⊕)

34 (i) Local government agencies and tribal governments with
35 geographic, economic, environmental health, or cultural interest
36 in the Salton Sea.

37 (ii) Nongovernmental organizations with environmental interests
38 relating to the Salton Sea.

39 (iii) The United States Geological Survey Salton Sea Science
40 Office.

(iv) Research institutions focused on research and development projects in the Salton Sea region.

(c) (1) The authority may lead a restoration funding and feasibility study, in consultation with the agency and the technical advisory group, to do the following:

(A) Investigate access and utility agreements that may contribute to the future funding of restoration activities at the Salton Sea.

(B) Analyze all feasible funding sources for restoration program components and activities.

(C) Analyze economic development opportunities, including, but not limited to, renewable energy, biofuels, mineral development, and algae production for the purposes of identifying new revenue sources for the Salton Sea restoration efforts.

(D) Identify state procurement and royalty sharing opportunities.

(E) Review existing long-term plans for restoration of the Salton Sea and recommend to the technical advisory group and the secretary changes to existing restoration plans. In any review pursuant to this subparagraph, the authority shall consider the impacts of the restoration plan on air quality, fish and wildlife habitat, water quality, and the technical and financial feasibility of the restoration plan and shall consider the impacts on other agencies responsible for air quality, endangered species, and other environmental mitigation requirements for implementation of the Quantification Settlement Agreement.

(2) No evaluation, study, review, or other activity pursuant to this article shall delay the planning and implementation of ongoing and planned mitigation projects, including, but not limited to, the Salton Sea Species Conservation Habitat Project or other mitigation measures pursuant to existing state and federal programs and agreements, including, but not limited to, those programs and agreements undertaken pursuant to the Quantification Settlement Agreement.

(3) (A) If the authority undertakes a study pursuant to paragraph (1), the department shall enter into a funding agreement with the authority for an amount of ~~up to~~ *no less than* two million dollars (\$2,000,000) from the Salton Sea Restoration Fund for the purposes of producing the restoration funding and feasibility review study. Provided that funding is available to the authority on or before July 1, 2014, the authority shall complete the study undertaken

1 pursuant to this subdivision and present the study to the Governor
2 and the Legislature on or before June 30, 2015.

3 (B) A report required to be submitted pursuant to this paragraph
4 shall be submitted in compliance with Section 9795 of the
5 Government Code.

6 2943. For the purposes of considering local, publicly derived
7 input concerning habitat objectives and actions, types and levels
8 of public access, and integration of air quality management and
9 habitat restoration, the secretary shall seek input from the authority
10 with regard to the following components of restoration of the Salton
11 Sea:

12 (a) Design opportunities and constraints, including the
13 integration of the habitat, public access, and air quality
14 management objectives.

15 (b) Public access and recreational components.

16 (c) Opportunities for economic development.

17 (d) Habitat mosaics and location.

18 (e) Vector management and predator control.

19 (f) Feasible financial resources to fund all recommended
20 restoration program components.

21 2945. (a) Nothing in this article interferes with or prevents the
22 exercise of authority by a public agency to carry out its programs,
23 projects, or responsibilities.

24 (b) Nothing in this article affects requirements imposed under
25 any other provision of law.

26 SEC. 2. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district are the result of a program for which legislative authority
30 was requested by that local agency or school district, within the
31 meaning of Section 17556 of the Government Code and Section
32 6 of Article XIII B of the California Constitution.